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PROPOSED PROGRAMME BUDGET FOR THE BIENNIUM 1996-1997

Revised estimates under section 5

Extension of the premises of the International Court of Justice

Report of the Secretary-General

I. INTRODUCTION

1. The International Court of Justice, established by Article 7 of the Charter of the United Nations, is the principal judicial organ of the United Nations. It functions in accordance with its Statute, which forms an integral part of the Charter. Article 22 of the Statute provides that "the seat of the Court shall be established at the Hague". Accordingly, and since its inception in 1945, the Court has occupied the premises of its predecessor, the Permanent Court of International Justice, in the Peace Palace at The Hague, under an agreement between the United Nations and the Carnegie Foundation in the Netherlands, which is the owner and administrator of the Peace Palace.

2. Increases in activities of the International Court of Justice have given rise to increased occupancy and expansion of the premises in the Peace Palace. As a consequence of increasing demands, additional space was provided over the years and was supplemented by construction of a new building for the Court in the 1970s (occupancy began in 1978) on the grounds of the Peace Palace.

3. In paragraph 5.22 of section 5 of the proposed programme budget for the biennium 1996-1997, 1/ the Secretary-General included provisional requirements ($457,400, at revised 1994-1995 rates) for the contribution payable by the United Nations to the Carnegie Foundation for further enlargement of the premises available to the Court. The provisional estimates corresponded to 810,000-270,000 Netherlands guilders (f.) for 1996 and f. 540,000 for 1997.

Occupancy of the enlarged premises was expected to begin about mid-year. As stated in the proposed programme budget consultations were ongoing with respect to possible amendments of the Agreement entered into between the Carnegie Foundation and the United Nations, for use of the premises by the Court. The Advisory Committee on Administrative and Budgetary Questions in its first report on the proposed programme budget for the biennium 1996-1997, 2/ recommended that a special report on the subject be submitted to the General Assembly early in the fiftieth session, with incorporation of possible measures for cooperation with other entities at The Hague.

II. HISTORICAL BACKGROUND

4. An agreement was concluded between the United Nations and the Carnegie Foundation dated 21 February 1946, which was subsequently approved by the General Assembly by its resolution 84 (I) of 11 December 1946, for occupancy of the original premises (premises occupied by its predecessor, the Permanent Court of International Justice), by the International Court of Justice. The Agreement stipulated payment by the International Court of Justice of an annual contribution of 48,000 Netherlands florins ($27,428 at current rates) for the use of certain specified premises in the Peace Palace. This sum was increased to 68,400 Netherlands florins ($39,100 at current rates) by the General Assembly in its resolution 586 (VI) of 21 December 1951, in which it approved a Supplementary Agreement in order to offset the devaluation of the then Netherlands florin. Another Supplementary Agreement was approved by the General Assembly, under the terms of resolution 1343 (XIII) of 13 December 1958, by which the annual contribution was increased to 100,000 Netherlands florins ($57,100 at current rates) as a consequence of increased costs of maintenance of the Peace Palace. Thereafter, subsequent increases in the United Nations contribution over the years on the basis of requests by the Carnegie Foundation owing to increases in its operating costs, attributable to changes in the rate of inflation were approved by the General Assembly without supplementary agreements. The largest increase was approved for the biennium 1980-1981, when the Foundation requested a readjustment of the contribution payable by the United Nations owing in the main to the additional space occupied by the Court in the newly constructed building.

5. A further agreement was concluded with the Carnegie Foundation and approved by the General Assembly in annex B to its resolution 84 (I) regarding the repayment of loans granted in 1927 and 1932 by the Netherlands Government to the Carnegie Foundation for the purpose of carrying out alterations in the premises of the Permanent Court of International Justice to provide adequate accommodation for the judges and the Registry of that Court, which accommodation the present Court now occupies. Annual payments towards the reimbursement of these loans had previously been made by the League of Nations. This latter agreement provided the annual schedule of reimbursements by the United Nations for the balance due on each of the loans. The 1927 loan was liquidated in 1958 and the final payment on the 1932 loan was made in 1963.

III. PROVISION OF SPACE AND AGREEMENT

6. The provision of office accommodation and related facilities to the International Court of Justice fall into three general categories: (a) permanent offices and related space; (b) facilities for sessions of the Court; and (c) offices for temporary staff, and is governed by article IV of the Agreement with the Carnegie Foundation, which specifies:

> "The Court shall have the permanent and exclusive use of the following rooms: Nos. 8, 9, 10, 11, 13, 27, 28, 38, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227, 228, 229, 230, 231, 232, 301, 302, 303 and 306, as well as the room known as the "Refectory" and the adjacent premises appertaining thereto.
>
> "Whilst the Court and its Chambers are in session, the Court shall have the use of the Great Court Room (No. 2) and the ante-chamber (No. 3) as well as of rooms No. 1 and 25. On days on which the Court is not meeting in public, the said premises may be used by other institutions.
>
> "The Court will be entitled to the joint use of all the other premises of the Palace necessary for its work, in accordance with agreements to be concluded in each particular case with the Foundation.
>
> "Members of the Court and its officials shall enjoy on the same footing as the other members and officials of the other institutions occupying the Peace Palace:
>
> "1. The entrances and exits, vestibules, corridors and stairways;
>
> "2. The cloak-rooms and lavatories adjacent to the premises occupied;
>
> "3. The lifts and similar parts of the Palace intended for general use."

7. In terms of space utilization, a study carried out on the accommodations of the Court in 1965 estimated that an allocation of approximately 70 per cent of the total number of available rooms in the Peace Palace, or 63 per cent of the total available space, was provided to the Court. As can be noted from table 1 below, on the basis of the 1965 study, at any given period of the year and particularly during sessions of the Court, it would be provided the maximum of office and related accommodations available, as follows:

Table 1. Office space and related accommodations available to the Court in 1965

	Number of rooms	Total space	
		Square feet	Square metres
Permanent accommodations	52	22 719	2 111
Facilities for Court sessions	5	5 770	536
Offices for temporary staff (Reserve offices)	2	1 314	122
Total	59	29 803	2 769

8. Increases in the caseload of the Court, which warranted provisions of additional space over the years, as well as the new building constructed in the 1970s, have altered the earlier estimates of space allocated to the Court. A total of 92 rooms currently utilized by the Court reflects an increase by 33 rooms, or 4,967 square metres over the 1965 estimates, in effect 179 per cent, as reflected in table 2 below.

Table 2. Office space and related accommodations currently available to the Court

	Number of rooms	Total space (square metres)
Peace Palace Main Building (permanent accommodations)	49	3 331
Facilities for Court sessions	6	645
Judges' wing	37	3 760
Total	92	7 736

9. As is evident from table 3 below, which reflects personnel data of the Court from 1979, following occupancy of the new building in 1978, a steady increase of ad hoc judges and permanent and temporary staff of the Registry has evolved, to warrant provision of additional space, hence the proposed increase in accommodations now under discussion in the present report. Whereas in 1979 the Court had 2 cases on its docket and 8 hearings or public sittings, current estimates for 1995 register 13 and 36 respectively (see table 4 below). The view of States towards the judicial settlement of disputes has become increasingly positive, while developments in international relations have brought in their wake an increasing likelihood that legal aspects of inevitable international disputes will be submitted to the Court. Retrospection over the history of the Permanent Court of International Justice makes it apparent that the Court flourishes not in times of international tension but in times of détente. It would accordingly seem that the rise in the number of cases brought before the Court is not a passing phase but a historic change, which is likely to endure and expand.

10. The increase in the case-load of the Court has multiple effects, such as a rise in the number of ad hoc judges, from 2 in 1979 to the current 10, and is likely to increase as a result of a case brought before the Court in 1995. The new wing occupied in 1978 has accommodations for only two ad hoc judges. As need arises for additional office space other arrangements have had to be made, such as use of two new chambers temporarily fashioned out of the Court's periodical/map and conference rooms. Office space for ad hoc judges has accordingly had to be juggled, not without difficulty, as the ad hoc judges should be treated equally with members of the Court, since paragraph 6, article 31, of the Statute of the Court and paragraph 2, article 7, of the Rules of the Court indeed require that they take part in the decision and participate in the case in which they sit "on terms of complete equality" with the other judges. Experience to date reveals that ad hoc judges need to have their own offices, to which they have access at any time. To meet such needs, the extension now under way would provide space for eight judges.

11. Another effect of the continuous escalation in the case-load of the Court is the increase in secretarial assistance for members of the Court and ad hoc judges. The eight additional offices for judges will allow the redistribution of judicial offices so as to provide each member of the Court with an office supported by a secretary and concurrently house every sitting ad hoc judge with a suitable office and adequate secretarial support.

12. With the growth in the number of cases on the docket of the Court, and particularly with the recourse to chambers for particular cases emanating during the last decade, the possibility of a judge who is not re-elected being maintained in office to complete a case he has begun has increased and given rise also to additional space being required. The additional office space proposed will also provide for such contingencies.

13. Account also has to be taken of the consequential demands on the Registry of the Court for research and legal, library and documentary services and, particularly, translation and secretarial services owing to the expanded case-load of the Court and hence office space requirements for additional regular staff and those hired under temporary assistance for meetings and general

temporary assistance. As can be noted from table 3 below, the number of regular staff has increased by 96.8 per cent over the period from 1979 to 1995, while the temporary staff, those funded from temporary assistance for meetings, has increased by 77.8 per cent. The exacting work of translation of the Court's documentation requires that translators work in private offices but the shortage of space has been such that work has had to be carried out in the judges robing room and the press room. Temporary typists have also had to work at times in extreme conditions, such as the corridors or in shifts. It should be noted that reliable translation of the Court's work in its two official languages, French and English, is often times required immediately.

14. In addition to the new building proposed, reconstruction is now under way of storage and other space in the attic of the main building of the Peace Palace to provide approximately 39 offices to meet the needs of the additional regular and temporary staff of the Registry, as is evident from table 3 below. An illustration of the upward shift in the Court's workload since 1979, at which time there were 4 cases on the Court's docket and has since escalated to a historical high of 13, is reflected in table 4 below.

15. The total estimated space and related accommodations currently available to the Court and to become available after the proposed expansion is provided in table 5 below. The change in the number of rooms available to the Court is in part a corollary to reconfiguration of rooms that took place as additional space was requested and became available. Provision would be made for a new dining room to be utilized by members of the Court and the staff of its Registry. While the Carnegie Foundation provided a refectory in the Peace Palace about 12 years ago, the members of the Court require a private dining room where they may promote their collegiate concerns in confidential exchanges. A private dining room would also permit the Court on occasion to return the hospitality which it receives in The Hague. The dining room is expected to be operated during lunch hours. Additionally, the demand placed on the members of the Court and the staff of its Registry during sessions of the Court limits time spent away from the office. Another need to be met by the new construction would be a staff lounge where staff would be afforded a place to take a break away from the press of work. The original staff lounge was transformed into the typing pool owing to the consistent space problem faced by the Court. As can be noted, the estimated space to be provided in the new facilities is 3,987 square metres, or 51 per cent of the current space available to the Court, whereas, the increase in personnel since 1979 has been more than 100 per cent.

Table 3. Evolution of judges, ad hoc judges and staff of the Registry of the International Court of Justice

Year	Judges	Ad hoc judges	Professional staff	General Service staff a/	Temporary staff	Total
1979	15	2	14	17	4	52
1980	15	2	14	19	3	53
1981	15	3	15	17	6	56
1982	15	5	15	22	6	63
1983	15	5	15	22	7	64
1984	15	9	16	21	6	67
1985	15	7	15	25	9	71
1986	15	3	16	25	15	74
1987	15	2	14	25	16	72
1988	15	3	16	24	15	73
1989	15	4	16	24	20	79
1990	15	4	19	32	10	80
1991	15	10	19	32	10	86
1992	15	14	22	31	7	89
1993	15	13	22	32	8	90
1994	15	13	24	37	18	107
1995	15	10	24	37	18	107
1996 b/	15	13	24	37	18	107
1997 b/	15	13	24	37	18	107

a/ Reflects temporary staff hired for meetings and staff required to supplement the regular staff of the Court, against its authorized staffing table.

b/ Estimates.

Table 4. Evolution of the workload of the International Court of Justice

Year	Number of cases a/	Number of hearings or public sittings	Number of counsel b/
1979	2	-	-
1980	3	8	25
1981	4	29	65
1982	4	3	125
1983	2	-	-
1984	5	57	235
1985	6	38	150
1986	6	16	110
1987	7	3	65
1988	6	9	35
1989	8	16	55
1990	9	7	75
1991	12	72	115
1992	13	7	80
1993	13	35	125
1994	13	11	c/
1995	13	36	c/

a/ Reflects the number of cases before the Court between 1 August of any given year and 31 July of the following year.

b/ Information not available where not indicated.

c/ Not compiled.

Table 5. Office space and related accommodations currently available to the Court and proposed after expansion of the premises

	Number of rooms	Total (current) space (square metres)	Total space (after expansion) (square metres)
Peace Palace Main Building (permanent accommodations)	49	3 331	3 331
Facilities for Court sessions	6	645	645
Judges' wing	37	3 760	3 760
New facilities (extension of judges' wing and new Registry offices, including additional archives/storage space)	52 a/	-	3 987
Total	144	7 736	11 723

a/ The number of rooms might vary depending on the Court's use of available space or space made available temporarily upon request to the Carnegie Foundation.

IV. SUMMARY AND FINANCIAL IMPLICATIONS FOR 1996-1997

16. As mentioned in paragraph 3 above, the Advisory Committee on Administrative and Budgetary Questions in its first report on the proposed programme budget for the biennium 1996-1997 2/ recommended that a special report be submitted to the General Assembly at its fiftieth session on the requirements for the enlargement of premises available to the Court, provisionally proposed by the Secretary-General at $457,400 at 1994-1995 prices or $484,900 at 1996-1997 prices.

17. Further discussions and exchange of correspondence have been carried out with the Carnegie Foundation. The contribution that would be payable to the Foundation following the enlargement of the premises is estimated at f. 580,000, per annum, including f. 40,000, the operating costs associated with the new dining room for judges and the staff of the Registry. It is now estimated that the new premises would be made available to the Court by 1 January 1997 and not by mid-1996 as indicated in the proposed programme budget for the biennium 1996-1997. The estimated requirements for the biennium 1996-1997 for which an appropriation is sought is $346,800. The total estimated contribution (current and for new accommodations) requested by the Carnegie Foundation would therefore be increased to f. 3,632,600, or by 46 per cent per biennium, in 1998-1999.

18. Following discussions and exchanges of correspondence on possible amendments to the Agreement between the Carnegie Foundation and the United

Nations on the premises occupied by the International Court of Justice at The Hague, it has been concluded that amendments are confined to article II, which sets out the annual contribution payable by the United Nations to the Carnegie Foundation, and article IV, which sets out the accommodations at the Peace Palace made available to the Court.

19. The proposed amendment to article II, of the Agreement, which sets out the annual contribution payable by the United Nations to the Carnegie Foundation for premises occupied in the Peace Palace by the International Court of Justice, would cause the amount stated therein to be changed from f. 100,000 to f. 1,843,582 net and introduction of a qualification that the agreed amount is "subject to annual changes relating to inflation", which was not in the original nor subsequent amendments. The proposed amendment to article II in the annex to the present report would read as follows:

> "The annual contribution payable by the International Court of Justice in respect of the use of the Peace Palace is hereby fixed at 1,843,582 Netherlands guilders net, subject to annual changes relating to inflation."

20. The proposed amendment to article IV, which is essentially limited to revision in the number of rooms to be made available to the Court, is also reflected in the annex.

21. With respect to the Agreement between the United Nations and the Carnegie Foundation for such premises made available to the Court, the General Assembly would accordingly approve the Supplementary Agreement in the annex to the present report.

22. The Court has communicated that discussions carried out to date regarding cooperation with other entities at The Hague, notably between its Registry and that of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991 have not led to identification of services that could usefully be commonly administered.

23. The Registry of the Court is however continuing negotiations with the International Tribunal on common administrative arrangements with the aim of obtaining economies of administrative services.

24. Should the General Assembly approve the proposals contained herein, an appropriation of $346,800 would be required under section 5 of the proposed programme budget for the biennium 1996-1997 to provide for the additional contribution of the United Nations for 1997 for maintenance of the Peace Palace with respect to the additional accommodations made available to the Court by the Carnegie Foundation. The appropriation sought would represent a partial reinstatement of the provisional estimate of $484,900 included in the proposed programme budget for the biennium 1996-1997.

Notes

1/ Official Records of the General Assembly, Fiftieth Session, Supplement No. 6 (A/50/6/Rev.1), vol. I.

2/ Ibid., Supplement No. 7 (A/50/7), para. III.11.

ANNEX

Draft Supplementary Agreement between the United Nations and the Carnegie Foundation concerning the use of the Peace Palace at The Hague

1. The United Nations and the Carnegie Foundation hereby agree that article II of the Agreement between the United Nations and the Carnegie Foundation concerning the use of the premises of the Peace Palace at The Hague as contained in annex A to General Assembly resolution 84 (I) of 11 December 1946, as amended by the Supplementary Agreements contained in the annexes to Assembly resolution 586 (VI) of 21 December 1951, and 1343 (XIII) of 13 December 1958, and article IV, shall be amended to read as follows:

"Article II

"The annual contribution payable by the International Court of Justice in respect of the use of the Peace Palace is hereby fixed at 1,843,582 Netherlands guilders net, subject to annual changes relating to inflation."

"Article IV

"The Court shall, in addition to the judges' wing, have the permanent and exclusive use of the following rooms: No. 5, 7, 8, 11, 13, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227, 228, 229, 230, 231, 232, 301, 302, 303 and 306, as well as rooms ... a/ and archive space which are presently under construction on the second floor of the Peace Palace.

"Whilst the Court and its Chambers are in session, the Court shall have the use of the Great Court Room (No. 2) with the ante-chamber (No. 3) as well as of rooms Nos. 1 and 25. On days on which the Court is not meeting in public, the said premises may be used by other institutions.

"The Court shall be entitled to the joint use of all the other premises of the Palace necessary for its work, in accordance with agreements to be concluded in each particular case with the Foundation.

"Members of the Court and its officials shall enjoy on the same footing as the other members and officials of the other institutions occupying the Peace Palace:

"1. The entrance and exits, vestibules, corridors and stairways;

"2. The cloak-room and lavatories adjacent to the premises occupied;

"3. The lifts and similar parts of the Palace intended for general use."

2. This Supplementary Agreement shall enter into force with effect from 1 January 1997 when the Court is expected to begin occupancy of the enlarged premises to be provided to it by the Carnegie Foundation.

Notes

a/ These rooms will be numbered after the construction has been finished.